

“When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by [the Federal Rules of Civil Procedure] and that fact is made to appear by affidavit or otherwise, the Clerk shall enter the party’s default.” Fed. R. Civ. P. 55(a). Here, however, defendants Kupra and Gonzalez were not properly served, as the summonses sent to them were returned as undeliverable. [DE 28, 29, 39, 40]. As such, neither Mr. Kupra nor Mr.

Gonzalez has failed to timely defend. Because entry of default would therefore be inappropriate, plaintiff's motion [DE 38] is DENIED.

SO ORDERED, this 18 day of March, 2019.


TERRENCE W. BOYLE
CHIEF UNITED STATES DISTRICT JUDGE